

JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

OCT 21 2005

DOCKET NO. 1657

FILED  
CLERK'S OFFICE***BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION******IN RE VIOXX PRODUCTS LIABILITY LITIGATION***

***BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN, D. LOWELL JENSEN, J. FREDERICK MOTZ,\* ROBERT L. MILLER, JR., KATHRYNH VRATIL AND DAVID R. HANSEN, JUDGES OF THE PANEL***

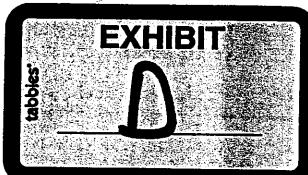
***TRANSFER ORDER***

Presently before the Panel are motions, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by the health care defendant in the Southern Texas action and plaintiffs in the remaining 47 actions listed on Schedule A to vacate the Panel's orders conditionally transferring the actions to the Eastern District of Louisiana for inclusion in the Section 1407 proceedings occurring there in this docket. Merck & Co., Inc., favors inclusion of these actions in MDL-1657 proceedings.

On the basis of the papers filed and hearing session held, the Panel finds that these actions involve common questions of fact with actions in this litigation previously transferred to the Eastern District of Louisiana. Transfer of the actions to that district for inclusion in the coordinated or consolidated pretrial proceedings occurring there will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Any pending motions to remand to state court can be presented to and decided by the transferee judge. See, e.g., *In re Ivy*, 901 F.2d 7 (2d Cir. 1990); *In re Prudential Insurance Company of America Sales Practices Litigation*, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001). The Panel further finds that transfer of these actions is appropriate for the reasons expressed in the original order directing centralization in this docket. In that order, the Panel held that the Eastern District of Louisiana was a proper Section 1407 forum for actions involving claims of liability for allegedly adverse effects arising from the ingestion of Vioxx. See *In re Vioxx Products Liability Litigation*, 360 F.Supp.2d 1352 (J.P.M.L. 2005).

To the North Carolina plaintiff who argues that he does not have the resources to litigate his claims in the Eastern District of Louisiana and to the health care defendant in the Southern Texas action who argues that it is not proper to split the Texas action into multiple pretrial proceedings, we emphasize that since Section 1407 transfer is for pretrial proceedings, there is usually no need for the parties and witnesses to travel to the transferee districts for depositions or otherwise. See, e.g., Fed.R.Civ.P. 45(c)(3)(A). Furthermore, the judicious use of liaison counsel, lead counsel and steering

\* Judge Motz took no part in the decision of this matter.



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committees will eliminate the need for most counsel ever to travel to the transferee districts. And it is logical to assume that prudent counsel will combine their forces and apportion their workload in order to streamline the efforts of the parties and witnesses, their counsel and the judiciary. This streamlining combined with uniform case management approaches instituted or anticipated in these multidistrict proceedings will foreseeably lead to an overall savings in transaction costs. See *In re Asbestos Products Liability Litigation (No. VI)*, 771 F.Supp. 415, 422 (J.P.M.L. 1991).

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, these actions are transferred to the Eastern District of Louisiana and, with the consent of that court, assigned to the Honorable Eldon E. Fallon for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

IT FURTHER ORDERED that the claims against Pfizer Inc. (Pfizer) and the physician defendant in *Santos Villarreal Layton v. Dario Arango, M.D., et al.*, S.D. Texas, C.A. No. 7:05-149, relating to Pfizer's Celebrex prescription medication are separated and remanded, pursuant to 28 U.S.C. § 1407(a), to the Southern District of Texas.

FOR THE PANEL:

Wm. Terrell Hodges

Wm. Terrell Hodges  
Chairman

## SCHEDULE A

### MDL-1657 -- In re Vioxx Products Liability Litigation

#### Southern District of California

*Alvin Williams v. Merck & Co., Inc., et al., C.A. No. 3:05-943  
Margaret Stein v. Merck & Co., Inc., et al., C.A. No. 3:05-944  
Otis Anderson v. Merck & Co., Inc., et al., C.A. No. 3:05-945  
Joan Ongley v. Merck & Co., Inc., et al., C.A. No. 3:05-947  
Hilda Armenta v. Merck & Co., Inc., et al., C.A. No. 3:05-948  
Robert Levesque v. Merck & Co., Inc., et al., C.A. No. 3:05-949  
Clancy Lucille Holloway v. Merck & Co., Inc., et al., C.A. No. 3:05-950  
Laura Martinez v. Merck & Co., Inc., et al., C.A. No. 3:05-951  
Clarice Forbes v. Merck & Co., Inc., et al., C.A. No. 3:05-953  
Robert Castro v. Merck & Co., Inc., et al., C.A. No. 3:05-954  
Joseph Capozzi v. Merck & Co., Inc., et al., C.A. No. 3:05-957  
Anna Lemmons v. Merck & Co., Inc., et al., C.A. No. 3:05-958  
Richard Brown v. Merck & Co., Inc., et al., C.A. No. 3:05-959  
Aida Hernandez v. Merck & Co., Inc., et al., C.A. No. 3:05-960  
Harvey Persh v. Merck & Co., Inc., et al., C.A. No. 3:05-961  
Robert Scott v. Merck & Co., Inc., et al., C.A. No. 3:05-962  
Violet Abramson v. Merck & Co., Inc., et al., C.A. No. 3:05-963  
Carmen Esquer v. Merck & Co., Inc., et al., C.A. No. 3:05-964*

#### Southern District of Illinois

*Rosie-May Spann v. Merck & Co., Inc., et al., C.A. No. 3:05-315  
James Steele, Jr., et al. v. Merck & Co., Inc., et al., C.A. No. 3:05-339  
Greg Miller, et al. v. Merck & Co., Inc., et al., C.A. No. 3:05-361  
Wilma Gaston, et al. v. Merck & Co., Inc., et al., C.A. No. 3:05-362  
John Allen, et al. v. Merck & Co., Inc., et al., C.A. No. 3:05-377*

#### Western District of Kentucky

*William Andrew Curl, et al. v. Merck & Co., Inc., et al., C.A. No. 3:05-324  
Brenda Cox, et al. v. Merck & Co., Inc., et al., C.A. No. 3:05-332  
Patrick Wayne Overall, et al. v. Merck & Co., Inc., et al., C.A. No. 3:05-333  
James Goodman v. Merck & Co., Inc., et al., C.A. No. 3:05-334  
Steven Clark v. Merck & Co., Inc., et al., C.A. No. 3:05-335*

#### Eastern District of Missouri

*Dorothy Ganser, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-557  
Letty Bess, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-568  
Arthur Mullins, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-569,  
Dorothy Kassing, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-631  
Shirley Zook, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-632  
Andrew Kisty, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-665*

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Eastern District of Missouri (Continued)

*Virginia Kell, et al. v. Merck & Co., Inc., et al.*, C.A. No. 4:05-666  
*Mary Benson, et al. v. Merck & Co., Inc., et al.*, C.A. No. 4:05-668  
*Earlie Douglas, et al. v. Merck & Co., Inc., et al.*, C.A. No. 4:05-669  
*Ricardo Lara, et al. v. Merck & Co., Inc., et al.*, C.A. No. 4:05-671  
*Loretta Trinidad, et al. v. Merck & Co., Inc., et al.*, C.A. No. 4:05-673  
*David Moultrie, et al. v. Merck & Co., Inc., et al.*, C.A. No. 4:05-674  
*Irene Rogers, et al. v. Merck & Co., Inc., et al.*, C.A. No. 4:05-675  
*Charlotte Bohlke, et al. v. Merck & Co., Inc., et al.*, C.A. No. 4:05-837

Middle District of North Carolina

*Jimmy Reid v. Merck & Co., Inc.*, C.A. No. 1:05-348

Eastern District of Texas

*Elfriede Blacketer v. Merck & Co., Inc., et al.*, C.A. No. 1:05-336  
*Walter Maddox v. Merck & Co., Inc., et al.*, C.A. No. 1:05-338

Southern District of Texas

*Santos Villarreal Layton v. Dario Arango, M.D., et al.*, C.A. No. 7:05-149

Western District of Washington

*Robert K. Waitt v. Merck & Co., Inc., et al.*, C.A. No. 2:05-759

Northern District of West Virginia

*Shelia Dalgo v. Merck & Co., Inc.*, C.A. No. 5:05-48